

Remarks

The Office Action dated February 19, 2009, has been received and carefully reviewed. The preceding amendments and the following remarks form a full and complete response thereto. Claims 1-7 and 17-30 have been amended. Support for the amendments may be found, inter alia, in the original claims. No new matter has been added. Accordingly, claims 1-7 and 17-30 are pending in this application and are submitted for consideration.

An objection was made to the drawings under 37 C.F.R. §1.83(a) on the grounds that the drawings must show each and every feature of the claims. In particular, the Office Action stated that elements in claims 1, 2, and 3 are not in the drawings. The Office Action asserted that, with respect to claim 1, the curvature of the roof segments being in the same direction when in a folded position is not shown; with respect to claim 2, the feature that the curvature of the roof segments facing away from the vehicle bottom was found not to be shown; and with respect to claim 3, the feature that the curvature of the roof segments face toward a vehicle bottom was found not to be shown. Applicant disagrees with the objections and submits that the features of the claims are adequately disclosed and shown therein.

For example, Figs. 5 and 7 illustrate the motion of the roof frame profiles in the at least one central roof segment, and clearly show the features of claims 1 and 2. With respect to claim 3, pages 3-4 of the specification disclose that it is possible for the roof segments to be folded in such a way that the curvature of each is facing the bottom of the vehicle. Claim 3 is a disclosed variant that one of ordinary skill in the art would

readily understand in view of the current disclosure and thus, an additional figure is not required. Accordingly, Applicant requests that the objection be withdrawn.

An objection was made to the specification under 37 C.F.R. 1.77(b) because there were no section headings. The specification has been amended to add the required section headings. Accordingly, Applicant requests that the objection be withdrawn.

Claims 1-7 and 17-30 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicant traverses the rejection and submits that claims 1-7 and 17-30, as amended, comply with the requirements of 35 U.S.C. § 112.

The Office Action rejected claims 1-3 on the ground that certain features are unclear. In particular, the feature that the curvature of the roof segments are in the same direction when the top is folded down was found to be unclear since, as the Office Action asserts, the center roof segment appears to be in a position opposite the front and rear segments when the top is in a folded position.

Applicant submits that the invention recited in claim 1 is clear in light of the specification. For example, Figs. 5 and 7 illustrate the motion of the roof frame profiles in the at least one central roof segment. Further, paragraph [0011] discloses that the curvature of the roof segments are in the same direction when the top is folded down. Accordingly, Applicant requests that the rejection to claims 1-3 be withdrawn.

With respect to claims 5 and 6, the Examiner kindly recommended amending the first use of the term "the outer roof profile" in claims 5 and 6 to read "the outer roof

profile of the at least one central roof segment.” Amendments have been made in accordance with this recommendation.

With respect to claim 17, the Office Action states that there is insufficient antecedent basis for “the control rod” and “the articulated chain.” “The control rod” has been deleted and “the articulated chain” has been amended to state “an articulated chain.”

With respect to claim 21, the Office Action states that there is insufficient antecedent basis for “an outer roof frame profile” and “the body.” Applicant disagrees that there is insufficient antecedent basis for “an outer roof frame profile” because the full excerpt is “an outer roof frame profile of the rear-end roof segment.” It is disclosed in claim 1 that the convertible top has a rear-end roof segment with outer roof frame profiles. Applicant traverses the rejection of claim 21 on the grounds of insufficient antecedent basis for “an outer roof frame profile.” The term “the body” has been amended to state “a body of the convertible vehicle.”

The term “the body” has been likewise amended in claims 22, 23 and 25 to address insufficient antecedent basis rejections.

With respect to claim 22, the Office Action states that there is insufficient antecedent basis for “an outer roof frame profile.” The term “an outer roof frame profile” has been amended to “the outer roof frame profile of the rear-end roof segment

With respect to claim 23, the Office Action states that there is insufficient antecedent basis for “it.” The term “it” has been amended to “the first lever.”

With respect to claim 24, the Office Action states that there is insufficient antecedent basis for “the outer roof frame profile” and “the up position.” The term “the outer roof frame profile” has been amended to “the outer roof frame profile of the rear-end roof segment.” The term “the up position” has been amended to “an up position.”

With respect to claim 25, the Office Action states that there is insufficient antecedent basis for “an outer roof frame profile” and “the lever.” The term “an outer roof frame profile” has been amended to “an outer roof frame profile of the rear-end roof segment.” The term “the lever” has been amended to “each lever.”

With respect to claim 27, the Office Action states that there is insufficient antecedent basis for “the rear window,” “the outer roof frame profile” and “the flexible roof membrane.” The term “the rear window” has been amended to “a rear window.” The term “the outer roof frame profile” has been amended to “the outer roof frame profile of the rear-end roof segment.” The term “the flexible roof membrane” has been amended to “a flexible roof membrane.”

With respect to claim 29, the Office Action states that there is insufficient antecedent basis for “the articulated chain,” “the first lever” and “the 4-bar linkage mechanism.” The term “the articulated chain” has been amended to “an articulated chain.” The term “the first lever” has been amended to “a first lever.” The term “the 4-bar linkage mechanism” has been amended to “a 4-bar linkage mechanism.”

Further, the Office Action rejected claim 29 because the term “and/or” is indefinite as to what the applicant intends to claim. The claim has been amended to state “at least one of opening and closing.”

With respect to claim 30, the Office Action states that there is insufficient antecedent basis for "the connection." The term "the connection" has been amended to "a connection."

In view of the foregoing, Applicant submits that claims 1-7 and 17-30 now satisfy the requirements of 35 U.S.C. § 112. Accordingly, Applicant requests that the rejections be withdrawn.

Claims 1-4 and 18-20 were rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable as obvious over German Published Patent Application DE 10051436 to Langguth, in view of "well known prior art." Applicant traverses this rejection.

It was asserted in the Office Action that each and every element of the claims is disclosed in Langguth except for a convertible top with three segments. The examiner took Official Notice that convertible tops are well known in the prior art having three segments. The Office Action states the Langguth discloses "the roof parts being stored in opposite directions stacked one above the other. The curvature of one segment faces towards a vehicle bottom while the curvature of the other segment faces away."

Claim 1, upon which claims 2-4 and 18-20 depend, recites a convertible top for a convertible vehicle including a rear-end roof segment, a front-end roof segment and at least one central roof segment. The roof segments have opposing outer roof frame profiles arranged symmetrically with a vehicle longitudinal axis which can be folded up in accordion fashion via a convertible top mechanism. The outer roof frame profiles of the at least one central roof segment are shifted in the direction of the center of the vehicle and rotated about an axis at least approximately parallel to the vehicle

longitudinal axis in comparison to a position in which the convertible top is put up by means of guide mechanism. The roof segments are arranged essentially one above the other in a folded position with the convertible top down, with the curvature in the same direction.

Applicant traverses the Official Notice because, inter alia, this is not a proper application of Official Notice. Applicant requests that the Examiner substantiate its position with documentary evidence.

Langguth discloses a motor vehicle roof with a seal for sealing a movable roof part with an adjacent motor vehicle part. Abstract. Figures 3 and 6 show the roof in a lowered position in which "the rear roof part and the front roof part are positioned on top of one another in an opposite arch." Col. 4, ll. 14-16. Further, the Office Action admits that Langguth does not disclose roof segments arranged essentially one above the other in a folded position with the convertible top down, with the curvature of each of the segments being in the same direction. Page 7, February 19, 2009 Office Action.

Thus, Langguth fails to disclose roof segments arranged essentially one above the other in a folded position with the convertible top down, with the curvature of each of the segments being in the same direction. None of the cited prior art cures this deficiency. Thus, the prior art fails to suggest or disclose each and every element of claim 1.

For the foregoing reasons, the rejection of claim 1-4 and 18-20 is improper and Applicant requests that the rejection be withdrawn.

In view of the above, all objections and rejections have been sufficiently addressed. Applicant submits that the application is now in condition for allowance and requests that claims 1-7 and 17-30 be allowed and this application passed to issue.

In the event that this paper is not timely filed, the Applicant respectfully petitions for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account No. 02-2135.

If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact, by telephone, the Applicant's undersigned attorney at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

The Office is authorized to charge any additional fees deemed necessary in connection with this response to Deposit Account 02-2135.

Respectfully submitted,

By: / Brian A. Tollefson /
Brian A. Tollefson
Attorney for Applicant
Registration No. 46,338
ROTHWELL, FIGG, ERNST & MANBECK, P.C.
Suite 800, 1425 K Street, N.W.
Washington, D.C. 20005
Telephone: (202)783-6040